IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1158 of 1999

in

SPECIAL CIVIL APPLICATIONNo 11112 of 1998

For Approval and Signature:

Hon'ble ACTG.CHIEF JUSTICE C.K.THAKKAR and

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RANJEET AUTO MOBILES

Versus

STATE OF GUJARAT

Appearance:

M/S THAKKAR ASSOC. for Appellant

NOTICE SERVED BY DS for Respondent No. 1, 2

CORAM : Actg.CJ MR.JUSTICE C.K.THAKKAR and

MR.JUSTICE P.B.MAJMUDAR

Date of decision: 20/01/2000

ORAL JUDGEMENT

(Per:Thakkar.Actg.C.J)

Admitted. Ms. Manisha Lavkumar learned AGP waives service of notice of admission. In the facts and circumstances of the case the matter is taken up for final hearing today.

2. This appeal is filed against the judgment and orders passed by the learned single Judge on 19.4.1999 and 18.8.1999 in SCA No 11112 of 1998.

3. It is not necessary to state facts in details in this judgment inasmuch as the main matter i.e. SCA No.11112 of 1998 was dismissed by the learned single Judge by an order dated 19.4.1999. At the time of hearing of the petition however, the learned Judge was of the opinion that there was suppression of material facts by the petitioner and that it was a fit case in which not only the petition was deserved to be dismissed but also exemplary costs, quantified at Rs.5000/- was to be awarded. But over and above, dismissal of petition and award of costs something more was called for. In para 18 of the judgment, therefore, the learned single Judge observed :

"Issue notice to the deponent to show cause as to why the contempt proceedings should not be initiated against him and should not be punished for committing contempt of this Court returnable [on 5.5.1999."

4. A notice accordingly was issued on 18.8.1999 and the petitioner was asked to show cause why appropriate punishment should not be awarded on him. The learned advocate appearing for the petitioner raised a contention before the learned single Judge that the matter was required to be placed before the Division Bench in view of the fact that contempt notice was issued to the petitioner. The learned single Judge, however, rejected the contention.

5. The learned single Judge passed the following order on 18.8.1999:

" Mr. N.K.Pahwa for the petitioner.

Learned Counsel for the petitioner raised a

contention that this matter has to be placed before the Division Bench prima-facie. I do not agree with this contention and I am of the opinion though I am not expressing any further opinion that under Art.215 of the Constitution this court has ample powers to punish the petitioner in case it is settled that it has committed contempt of the court for further arguments S.O. to 6.9.1999.

On the next date in the Board the name of Shri B.V.Gharaniya be shown as amicus - curiae)"

It is this appeal, the above order is challenged by the petitioner-appellant.

6. The matter was placed for admission before the Division Bench. Notice was issued on 25.8.1999 and was made returnable on 15.9.199. In Civil Application No.9545 of 1999 ad-interim relief staying the proceedings was also granted which is continued till today.

7. In the facts and circumstances of the case, in our opinion the contention raised by the learned counsel for the appellant is well founded. Since the proceedings are for contempt of court, the matter was required to be placed before the Division Bench taking up such matters.

8. No doubt, the learned AGP Ms. Manisha Lavkumar contended that this is a serious case in which the proceedings were rightly initiated and appropriate action should be taken against the appellant-petitioner. On the other hand Mr.Pahwa learned advocate for the appellant submitted that there was some mistake on the part of the petitioner - appellant for which he had tendered unconditional apology and the matter required to be finalised.

9. On our part, we express no opinion on merits. We allow the appeal directing the office to place the matter before a Division Bench taking up contempt matters for the disposal of the same in accordance with law.. The Division Bench will pass appropriate order after hearing the parties. The LPA is accordingly disposed of with the above observations and directions. No costs.

10. In view of the order passed in this LPA, ad-interim

relief granted in CA No.9545 of 1999 stands vacated. The matter will now be placed for hearing before a Division Bench on 2.2.2000 taking up contempt matters.

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